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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company for Recovery of 2011-2014 Gas
Transmission and Storage Capital
Expenditures Reviewed and Certified by
the Safety and Enforcement Division.
(U39G.)

Application 20-07-020

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

1. Procedural Background

On July 31, 2020, Pacific Gas and Electric Company (PG&E) filed this Application to request recovery of \$512 million of gas transmission and storage (GT&S) capital expenditures that it incurred in 2011 to 2014 above the costs that the Commission had authorized in Decision (D.) 11-04-031 (Gas Accord V decision).

PG&E previously requested recovery of these GT&S capital expenditures in PG&E's 2015 GT&S rate case (Application 13-12-012). Decision 16-06-056 (2015 GT&S decision) disallowed the recovery of these capital expenditures but it allowed PG&E to seek recovery of these costs in a future application after the Commission's Safety and Enforcement Division (SED) or a third party performs

an audit of these costs. SED completed the audit and issued a report with its findings on June 2, 2020 (Audit Report).

In this Application, PG&E asserts that the Audit Report establishes the cost reasonableness of the GT&S capital expenditures, and that the Commission does not have to assess the reasonableness of these costs in this proceeding. Protests were timely filed by the Public Advocates Office and The Utilities Reform Network (TURN). TURN contests that the Audit Report establishes reasonableness of the GT&S capital expenditures and proposes that PG&E submit additional showing to prove the reasonableness of the requested costs.

A prehearing conference (PHC) was held on September 29, 2020, to discuss the issues of law and fact and to determine the need for hearing and schedule for resolving the matter.

2. Standard of Review for Assessing Reasonableness of the GT&S Capital Expenditures

The 2015 GT&S decision allowed PG&E to file an application to seek recovery of the capital expenditures that PG&E spent above the amount authorized in Gas Accord V after SED conducts an audit of the capital expenditures. Ordering Paragraph 27 states,

Pacific Gas and Electric Company (PG&E) may file an application to seek recovery of the \$575.991 million in 2011-2014 capital expenditures that have not been disallowed after it has received the third-party audit report. This application shall not include any other requests, and PG&E shall not combine this application with any other applications. The audit report shall be part of the record, and be sponsored by the Commission's Safety and Enforcement Division.

In directing PG&E to file an application to seek recovery of the capital expenditures, the Commission intended to assess the reasonableness of the

capital expenditures in the cost recovery application. The Commission also directed SED to conduct an audit of the capital expenditures and to prepare and sponsor an Audit Report of its findings, before PG&E could file the application. The Audit Report was intended to provide the Commission with additional data on which it could rely on to assess the reasonableness of the GT&S capital expenditures in this Application.

3. Issues

After considering the application, protests, and discussion at the PHC, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo. The issues to be determined are:

1. Did PG&E reasonably incur the additional \$512 million of capital expenditures in 2011-2014 that were above the amount authorized in the Gas Accord V decision?
 - a. Were there reasonable justifications for the capital expenditures that were incurred above those forecasted or that were not forecasted in the Gas Accord V proceeding?
 - b. How does Safety and Enforcement Division's Audit Report support or not support the reasonableness of the \$512 million of additional capital expenditures PG&E incurred above the amount authorized in the Gas Accord V decision?
 - c. Should PG&E be allowed to recover any or all of the \$512 million of capital expenditures?
2. What is the appropriate ratemaking mechanism for the capital expenditures that the Commission approves for recovery?
 - a. What is the appropriate revenue requirement calculation?
 - b. What is the appropriate amortization period and the impact it has on customer rates?

- c. Should the recovery of capital expenditures be calculated as of January 2015?

4. Supplemental Testimony

As we assess the reasonableness of the GT&S capital expenditures in this proceeding, we emphasize the 2015 GT&S decision, which states:

(PG&E) should demonstrate that the costs were incurred prudently and that it made best efforts to contain costs (*e.g.*, that there were competitive bids for contracts, that the pace of any work performed did not result in unwarranted upward cost pressures, that cost overruns were explained and reasonable).¹

The 2015 GT&S decision then directed PG&E to seek an audit of the capital expenditures that would, at a minimum, address three of these questions (whether these costs were PSEP-related rather than GT&S-related, the extent that the capital expenditures were inflated by the accelerated nature of the remediation work, and the extent to which the capital expenditures is due to prior work that were not performed or performed incorrectly).

The Audit Report does not address whether PG&E pursued competitive bids for contracts, and why PG&E incurred these cost overruns. The testimony that PG&E has provided in this Application also fails to address the concerns raised in the 2015 GT&S decision on PG&E's showing, or lack thereof.

For the Commission to determine that the GT&S capital expenditures are reasonable, PG&E must demonstrate, at a minimum, the following:

- 1) PG&E incurred the costs prudently (*e.g.*, whether there were competitive bids);
- 2) PG&E made best efforts to contain costs; and

¹ D.16-06-056 at 277.

- 3) There were reasonable explanations for why PG&E incurred more capital expenditures than was authorized (*e.g.*, why PG&E incurred more than forecasted for those projects that were authorized, and why PG&E incurred costs for projects that were not authorized).

PG&E shall also set forth which of the projects for which it now seeks recovery pertain to pipeline segments that have been identified as a Top 100 risk.

PG&E shall submit Supplemental Testimony addressing the items above according to the proceeding schedule set below.

5. SED's Audit Report

On June 2, 2020, SED issued an Audit Report with its findings after reviewing a sample of the GT&S capital expenditures. SED examined the costs recorded for the largest 15 of 95 projects and for two of four gas programs that were subjected to the audit. In total, SED reviewed \$241 million, or 47 percent, of the \$543 million of recorded costs.

As directed by the 2015 GT&S decision, SED is the sponsor of the Audit Report. The Commission may rely on the findings in the Audit Report to assess the reasonableness of the GT&S capital expenditures. The parties may address whether and how the Commission should rely on the findings and conclusions of the Audit Report in their testimony and briefs, but SED staff will not be subject to cross examination.

6. Need for Evidentiary Hearing

The issues in this proceeding are contested material issues of fact. Accordingly, evidentiary hearing is needed on these issues.

Parties shall meet and confer after service of rebuttal testimony to clarify and narrow the contested facts and issues, as well as explore the possibility of settlement prior to the evidentiary hearing.

Parties shall file a Joint Case Management Statement according to the proceeding schedule set below, which must indicate whether any party believes a hearing is required. If there continues to be a need for a hearing, the Joint Case Management Statement shall also include the following information: (i) the disputed material issues of fact to be addressed in hearings, and (ii) the estimated amount of time needed for hearings.

7. Schedule

The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the Application:

EVENT	DATE
PG&E's Supplemental Testimony	January 20, 2021
Intervenors' Direct Testimony	April 7, 2021
Rebuttal Testimony	May 5, 2021
Joint Case Management Statement	May 25, 2021
Evidentiary hearings	June 14-18, 2021
Opening briefs	July 20, 2021
Reply briefs	August 10, 2021
Proposed decision	Fourth Quarter of 2021

The proceeding will stand submitted upon the filing of reply briefs, unless the ALJ requires further evidence or argument. Based on this schedule, the proceeding will be resolved within 18 months as required by Pub. Util. Code § 1701.5.

8. Alternative Dispute Resolution (ADR) Program

The Commission's ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.²

Any settlements between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Commission's Rules of Practice and Procedure and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

9. Category of Proceeding/ *Ex Parte* Restrictions

This ruling confirms the Commission's preliminary determination that this is a ratesetting proceeding. (Resolution ALJ 176-3468.) Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

10. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's August 2020 monthly newsletter. The newsletter is served

² See D.07-05-062, Appendix A, Section IV.O.

on communities and businesses that subscribe to it and is posted on the Commission's website.

11. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by October 29, 2020, 30 days after the PHC.

12. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. (*See* Pub. Util. Code § 1701.1(g).) Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the docket card for the proceeding.

13. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

14. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

15. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Elaine Lau is the assigned ALJ and presiding officer for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are needed.
4. The presiding officer is Administrative Law Judge Elaine Lau.
5. The category of the proceeding is ratesetting.

Dated October 16, 2020, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES
Martha Guzman Aceves
Assigned Commissioner